

David Boies and Associates

ATTORNEYS AT LAW

691 BEDFORD ROAD
ARMONK, NY 10504
(914) 234-6200
FACSIMILE: (914) 234-6219

FACSIMILE TRANSMISSION
AND AIRBORNE OVERNIGHT MAIL

July 18, 1997

F. Andrew Turley, Esq.
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 4646

Dear Mr. Turley:

I have a copy of your letter dated June 24, 1997 together with enclosures. Thank you for your courtesy in permitting me to delay my response until I returned from Europe.

As I understand your letter, the complaint you refer to consists of the enclosed affidavits of Carol Lewis and Scott Lewis. As a preliminary matter I note

(1) Carol Lewis and Scott Lewis are defendants in a RICO action brought by Ms. Habie and her company in the United States District Court for the Southern District of Florida. I enclose a Joint Status Report signed by all parties in that case which summarizes the nature of the case.

(2) Carol Lewis and Scott Lewis in depositions admitted, among other things, to income tax evasion and Scott Lewis threatened Ms. Habie to make charges against her of a criminal nature if she cooperated with a pending IRS investigation of Ms. Lewis and himself.

(3) Scott Lewis has also threatened to "make trouble" for me if I continued to represent Ms. Habie and he has sent a variety of false and misleading facsimile transmissions to lawyers with whom I work, my family, and the press.

I do not suggest that you should wholly disregard the affidavits of Carol Lewis and Scott Lewis, but I do believe the foregoing

facts should be taken into account in evaluating their credibility.

I also note that neither Carol Lewis nor Scott Lewis purports to ever have spoken to me about any of the matters contained in their sworn affidavits. The assertions contained in those affidavits concerning me purport to be based on statements said to have been made by Ms. Habie. Ms. Habie denies making those statements. (Moreover, even if everything stated in the affidavits were assumed to be true, there is nothing--not even repeated hearsay--that suggests that I knew or had any reason to believe that the FECA was being violated--let alone that I participated in any way in any violation.)

I respectfully suggest that there simply is no basis for believing that I "may have violated the Federal Election Campaign Act of 1971".

The relevant facts, as I know them, are:

(a) I was aware that Ms. Habie occasionally made political contributions.

(b) In 1996 I asked Ms. Habie if she would be interested in contributing to Congresswoman Harman's campaign.

(c) Ms. Habie said she would contribute and she would ask others to contribute.

(d) I told Ms. Habie that Congresswoman Harman could not accept more than \$1000 from any one contributor.

(e) I also told Ms. Habie that while whatever she did would be appreciated, she should not feel any obligation to contribute or to solicit others to contribute.

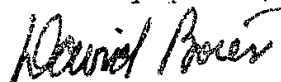
(f) Ms. Habie ultimately contributed \$1000 herself and raised \$1000 each from I thought three (but the affidavits indicate four) other people.

(g) At no time did Ms. Habie indicate or suggest to me in any way that the contributions she raised from others (including Carol Lewis) were other than the personal, voluntary contributions of such persons.

(h) I never suggested to Ms. Habie, nor is it true, nor (I am confident) did Ms. Habie ever suggest to Carol Lewis or Scott Lewis that I make "tens of thousands of dollars of such contributions to different congressmen annually". You have the records of my own contributions. The candidates for whom I have ever tried to raise money from others is even more limited.

I am enclosing an affidavit from Amy Habie. While I am, of course, prepared to answer any questions you may have, I hope you will be able to conclude after a consideration of the materials you now have that there is no basis for any complaint.

Sincerely yours,



David Boies

DB:lj
Enclosures: 2

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

NICAL OF PALM BEACH, INC.,
and AMY HABIE,

Plaintiff,

CASE NO.: 97-8082-CIV-GRAHAM
MAGISTRATE JUDGE BANDSTRA

vs.

SCOTT LEWIS, CAROL LEWIS,
JOHN BEILER and LUIS ROJO,

Defendants.

JOINT STATUS REPORT

Pursuant to this Court's March 26, 1997 Order, Plaintiffs Nical of Palm Beach, Inc. ("Nical") and Amy Habie, and Defendants Scott Lewis, Carol Lewis, and John Beiler submit the following Status Report.

1. A plain statement of the nature of the claim and any counterclaim, cross-claim, or third-party claim, including the amount of damages claimed and any other relief sought:

Plaintiffs Nical and Amy Habie allege that defendants have:

- (a) threatened and assaulted Nical's employees, including Amy Habie;
- (b) fraudulently diverted and converted checks due and belong to Nical for services provided by Nical;
- (c) fraudulently misrepresented to customers and prospective customers in the Palm Beach area the status of Nical's business;

(d) sabotaged Nical's work on customers' estates and property used by or belonging to Nical;

(e) misrepresented defendants' status and business for the purpose and effect of diverting customers from Nical to defendants' new business;

(f) organized a group boycott of Nical;

(g) fraudulently used Nical's workers' compensation number and rating;

(h) wrongfully removed and destroyed Nical's computer and other files;

(i) induced Nical's employees to breach their fiduciary duties;

(j) tortiously interfered with contracts between Nical and its customers;

(k) stolen, damaged, and converted Nical's equipment and supplies; and

(l) combined and conspired together and with Amy Habie's former husband (who is a fugitive from justice for the kidnaping of Ms. Habie's children) to accomplish the foregoing and to otherwise harass and damage Ms. Habie and her business.

Plaintiffs allege that the foregoing activity constitutes a pattern of racketeering activity which has caused them injury in violation of the federal RICO statute, 18 U.S.C. § 1962(a)-(d) and Florida's Civil Remedies for Criminal Practices Act, Fla. Stat. § 772.103(1)-(4); a group boycott against them, in violation of § 1 of the

Sherman Act, 15 U.S.C. § 1, and assault, fraud, conversion, interference with fiduciary duties, and tortious interference with contract in violation of Florida statutes and common law. Plaintiffs seek monetary damages in an amount to be determined at trial (but in any event not less than \$300,000) as well as punitive damages, injunctive relief, interest, costs, disbursements and attorneys' fees. There have been no counterclaims, cross-claims, or third-party claims filed. Defendants have denied all wrongdoing and have moved to dismiss the pending complaint which motion is pending.

2. A brief summary of facts which are uncontested or which can be stipulated to without discovery:

(a) In March 1996, plaintiffs purchased a lawn care business from Scott Lewis and Scott Lewis' Gardening & Trimming, Inc. The purchase price was \$800,000, with \$300,000 down and a purchase money mortgage for the remaining \$500,000.

(b) On March 2, 1996 Scott Lewis' Gardening & Trimming, Inc. and Nical of Palm Beach, Inc. executed a Name Assignment attached as Exhibit 1 to the Complaint.

(c) Since March 1996 Nical has been doing business as "Scott Lewis' Gardening & Trimming."

(d) On March 2, 1996 the parties executed a Consultation and Sales Commission Agreement pursuant to which Scott Lewis served as a consultant to Nical for a 75 day period. The parties thereafter contracted, by oral agreement, for Scott Lewis to continue to

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provide consulting services to Nical and Amy Habie and for Carol Lewis to continue as office manager and bookkeeper. (The parties dispute the terms of this oral agreement).

(e) In or about July 10, 1996 Carol Lewis left her employment with Nical.

(f) On or about September 5, 1996 Scott Lewis terminated his consulting relationship with Nical.

(g) On or about September 8, 1996 defendant John Beiler quit his employment as a supervisor at Nical.

(h) Prior to October 8, 1996 Scott Lewis and Carol Lewis began competing with Plaintiffs in the Palm Beach area. On October 8, 1996, Nical and Amy Habie brought an action docketed as Case No. 96-008601 AN against Defendants Scott Lewis and Carol Lewis and against Scott Lewis' Gardening & Trimming, Inc. in the Circuit Court, Palm Beach County

3. A brief summary of the issues as presently known:

The important existing issues (according to the plaintiffs) are:

(a) whether John Beiler, while working for and in conjunction with Scott Lewis and Carol Lewis, wrongfully removed lawn care equipment belonging to Nical;

(b) whether Luis Rojo, while working for and in conjunction with Scott Lewis and Carol Lewis, has repeatedly threatened and assaulted employees of Nical, including Amy Habie;

(c) whether Gary Scudiero, while working for and in conjunction with Scott Lewis and Carol Lewis, wrongfully removed equipment and files belonging to Nical;

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(d) whether defendants have fraudulently diverted and converted checks due, and belonging to Nical for services provided by Nical;

(e) whether defendants have engaged in a pattern of racketeering activity which has caused injury to Nical of Palm Beach, Inc. and Amy Habie;

(f) whether Scott and Carol Lewis wrongfully destroyed Nical's computer files and removed other files from Nical's offices without permission;

(g) whether defendants have made fraudulent misrepresentations concerning their theft and destruction of Nical's computer files;

(h) whether defendants have fraudulently diverted and misappropriated funds and other assets belonging to Nical and Amy Habie;

(i) whether defendants have fraudulently misrepresented their status as a business entity and the status of Nical doing business as Scott Lewis Gardening & Trimming to customers and suppliers in the Palm Beach area, including through distribution of a false "fact sheet" to the Palm Beach Board of Realtors;

(j) whether defendants have made fraudulent misrepresentations concerning their provision of trash disposal facilities for Nical;

(k) whether defendants have organized a group boycott against Nical and Amy Habie;

(l) whether defendant John Boilex has breached his employment contract with Nical of Palm Beach; and

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m) whether defendants have wrongfully converted plaintiffs' property. According to the defendants this is a breach of contract action which is already before the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County.

4. A summary of any pending motions:

(a) Defendants Scott Lewis, Carol Lewis and John Beller have moved to stay the Complaint on the basis of the action pending in the Circuit Court, Palm Beach County, or, in the alternative, to dismiss the Complaint.

(b) Plaintiffs Nical and Amy Habie have moved for the admission *pro hac vice* of their attorney, David Boles.

(c) Plaintiffs Nical and Amy Habie have moved to permit telephonic appearance by David Boles at the status conference.

(d) Defendants Scott Lewis, Carol Lewis and John Beller have moved to permit telephonic appearance by Jack Scarola at the status conference.

5. The progress of discovery in the case, and the approximate time at which the case will be ready for trial and/or pretrial conference.

(a) No discovery has been commenced in this action. Plaintiffs intend to commence discovery immediately following the May 7, 1997 status conference.

(b) Plaintiffs believe this case should be ready for final pretrial conference by December 1, 1997. Defendants believe that this case should be ready for final pretrial conference by December 1, 1998.

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6. The projected time necessary for trial, and a statement of whether the case is jury or non-jury trial:

The case is a jury case. The projected time for trial is two weeks.

7. Any unique legal or factual aspects of the case requiring special consideration by the Court:

None at this time

8. Status of any potential settlement:

The parties have not discussed settlement of this action, although the parties have attempted without success to settle the action pending in the Circuit Court, Palm Beach County, described in paragraph 2 above.

- 9a. A statement as to whether the parties will consent to a Magistrate Judge:

Not at the present time.

- 9b. Unique issues requiring reference to a Special Master or Magistrate Judge:

None.

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10. Other Matters:

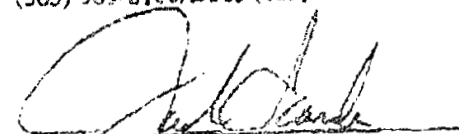
Defendant Luis Rojo has failed to answer the Complaint. His default was entered in this action on March 18, 1997.

Dated: April 25, 1997

Respectfully submitted,



JEFFREY P. WASSERMAN, ESQ.
Fla. Bar No: 144572
MUCHNICK, WASSERMAN & DOLIN
4000 Hollywood Blvd., Suite 710N
Hollywood, Florida 33021
Attorneys for Plaintiffs
(305) 989-8100/Dade (305) 624-9100



JACK SCAROLA
Fla. Bar No: 169440
SEARCY DENNEY SCAROLA
BARNHART & SHIPLEY, P.A.
2439 Palm Beach Lakes Blvd.
P.O. Drawer 3626
West Palm Beach, FL 33402-3626
Attorney for Defendants
(561) 686-6300

Affidavit

1. My name is Amy Habie, I reside at 7068 Montrico Drive, Boca Raton, FL 33433. I give this affidavit at the request of David Boies to respond to assertions made in affidavits given to the Federal Election Committee by Scott Lewis and Carol Lewis.

2. Scott Lewis and Carol Lewis are now, and have been since October of 1996 defendants in litigation brought by me and my company (Nical of Palm Beach, Inc.), including a RICO action pending in Federal Court in Miami. David Boies has been assisting my Florida counsel in representing me in that litigation.

3. Scott Lewis has made numerous threats directed to me, my employees, and my counsel (including David Boies). Mr. Lewis has also threatened to "make trouble" and to generate criminal and other complaints against me and against my counsel if certain admissions by Mr. Lewis and his wife in depositions relating to their income tax evasion saw the light of day.

4. Mr. Lewis has made and caused others to make complaints about me and my business to several Florida agencies. Since October of 1996 Mr. Lewis has also threatened to "report" me to the Federal Government in connection with a campaign contribution made by Carol Lewis in May 1996 unless litigation was settled on terms that Mr. Lewis wanted (including the destruction of evidence of his income tax evasion).

5. In the spring of 1996 Mr. Boies asked me if I would be interested in contributing to Congresswoman Jane Harmon's campaign for re-election. I have made very few political contributions, but Mr. Boies had spoken about Congresswoman Harmon in the past and I told Mr. Boies that she would be one of the few politicians that I would give money to, and that I would ask other people to contribute as well.


6. Mr. Boies told me that Congresswoman Harmon could not accept more than \$1000 or \$2000 from any one contributor. At that time I did not understand that this was a legal requirement but believed that this was a requirement that Congresswoman Harmon had set for her own purposes. Thinking back I cannot pinpoint exactly why I believed what I believed, but I think it was because I did not know any legal requirement for limiting contributions to \$1000 or \$2000. Indeed, I can remember seeing articles about much larger contributions by wealthy individuals without any indication that such contributions were illegal.

7. At no time did I say or suggest to David Boies that I was assisting financially any of the persons who contributed in order to enable them to contribute. I am sure that Mr. Boies believed that the contributions by Carol Lewis and others were their own.

8. I am certain that I never said or suggested to Scott Lewis or Carol Lewis that "David Boies made tens of thousands of dollars of such contributions to different Congressmen annually" -- I have no reason to believe that is true, I think it is not true, and I certainly never said or suggested that. Similarly, I did not say to Scott Lewis or Carol Lewis, and it is not true, that I "helped him in doing so by enlisting the aid of my relatives, friends and business associates".

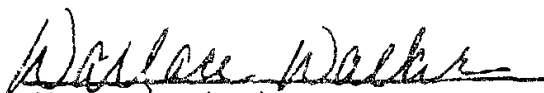
AFFIDAVIT OF AMY HABIE

Further Affiant sayeth naught.



AMY HABIE

Subscribed and sworn to before me on July 21, 1997, by Amy Habie who is personally known to me.



(Notary signature)

